

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 285 be amended to read as follows:

- 1 Page 2, between lines 19 and 20, begin a new paragraph and insert:
- 2 "SECTION 3. IC 10-14-3-3.5 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. As used in this chapter,**
- 5 **"county emergency operations center" means a facility used by a**
- 6 **county emergency management organization or an**
- 7 **interjurisdictional disaster agency to perform emergency direction**
- 8 **and control functions before, during, and after an emergency."**
- 9 Page 12, between lines 20 and 21, begin a new paragraph and insert:
- 10 "SECTION 8. IC 10-14-3-35 IS ADDED TO THE INDIANA
- 11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 12 [EFFECTIVE JULY 1, 2006]: **Sec. 35. (a) The legislative body of a**
- 13 **county may establish:**
- 14 **(1) one (1) primary county emergency operations center; and**
- 15 **(2) one (1) secondary county emergency operations center.**
- 16 **(b) The executive of a county that establishes a county**
- 17 **emergency operations center shall determine the design and**
- 18 **location of the county emergency operations center.**
- 19 **(c) Money from the following sources may be used for the lease,**
- 20 **purchase, construction, or maintenance of a county emergency**
- 21 **operations center, including the lease, purchase, installation, or**
- 22 **maintenance of equipment necessary to operate the county**
- 23 **emergency operations center:**
- 24 **(1) Emergency telephone system fees under IC 36-8-16-14.**
- 25 **(2) Distributions from the wireless emergency telephone**

**system fund established under IC 36-8-16.5-21."**

Page 18, after line 11, begin a new paragraph and insert:

"SECTION 12. IC 36-8-16-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The emergency telephone system fees shall be used only to pay for:

(1) the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;

(2) the rates associated with the service suppliers' enhanced emergency telephone system network services;

(3) the personnel expenses of the emergency telephone system;  
**and**

(4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee;  
**and**

**(5) the lease, purchase, construction, or maintenance of a county emergency operations center (as defined in IC 10-14-3-3.5), including the lease, purchase, installation, or maintenance of equipment necessary to operate the county emergency operations center.**

The legislative body of the unit may appropriate money in the fund only for such an expenditure.

(b) This subsection applies to a county that:

(1) imposes a fee under section 5 of this chapter; and

(2) contains a municipality that operates a PSAP (as defined in IC 36-8-16.5-13).

Not later than January 31 of each year, the county fiscal body shall submit to each municipality described in subdivision (2) a report of all expenditures described in subsection (a) paid during the immediately preceding calendar year.

SECTION 13. IC 36-8-16.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 21. (a) The wireless emergency telephone system fund is established for the **purpose** purposes of:

(1) creating and maintaining an enhanced wireless 911 system;  
**and**

**(2) establishing and maintaining a county emergency operations center (as defined in IC 10-14-3-3.5).**

(b) The expenses of administering the fund must be paid from money in the fund.

SECTION 14. IC 36-8-16.5-39, AS AMENDED BY P.L.146-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 39. (a) Except as provided by section 26 of this chapter and subsections (b) and (c), the fund must be managed in the following manner:

(1) Three cents (\$0.03) of the wireless emergency 911 fee collected from each subscriber must be deposited in an escrow account to be used to reimburse:

(A) CMRS providers, PSAPs, and the board for costs associated with implementation of phase two (2) of the FCC order; and

(B) the board for costs associated with other wireless enhanced 911 services mandated by the FCC and specified in the FCC order but not incurred by CMRS providers or PSAPs.

A CMRS provider or a PSAP may recover costs under this chapter if the costs are incurred before July 1, 2005, and invoiced to the board not later than December 31, 2005. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments to reimburse CMRS providers and PSAPs under this subdivision.

(2) At least twenty-five cents (\$0.25) of the wireless emergency 911 fee collected from each subscriber must be deposited in an escrow account and used to reimburse CMRS providers for the actual costs incurred by the CMRS providers before July 1, 2005, in complying with the wireless 911 requirements established by the FCC order and rules that are adopted by the FCC under the FCC order, including costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the costs of operating the service. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments to reimburse CMRS providers under this subdivision. The CMRS provider may only request funds for true cost recovery. The board may increase the amount held in escrow under this subdivision not more than one (1) time a calendar year. If the board adjusts the wireless emergency 911 fee under section 26(a) of this chapter within a calendar year, an adjustment to the amount held in escrow under this subdivision for the calendar year must be made at that time.

(3) Two percent (2%) of the wireless emergency 911 fee collected from each subscriber may be used by the board to recover the board's expenses in administering this chapter. However, the board may increase this percentage at the time the board may adjust the monthly fee assessed against each subscriber to allow for full recovery of administration expenses.

(4) The remainder of the wireless emergency 911 fee collected from each subscriber must be distributed in the following manner:

(A) The board shall distribute on a monthly basis to each county containing one (1) or more eligible PSAPs, as identified by the county in the notice required under section 40 of this chapter, a part of the remainder based upon the county's

percentage of the state's population (as reported in the most recent official United States census). A county must use a distribution received under this clause to make distributions to PSAPs that:

- (i) are identified by the county under section 40 of this chapter as eligible for distributions; and
- (ii) accept wireless enhanced 911 service;

for actual costs incurred by the PSAPs in complying with the wireless enhanced 911 requirements established by the FCC order and rules.

(B) The amount of the fee remaining, if any, after the distributions required under clause (A) must be distributed in equal shares between the escrow accounts established under subdivisions (1) and (2).

(b) Notwithstanding the requirements described in subsection (a), the board may transfer money between and among the accounts in subsection (a) in accordance with the following procedures:

(1) For purposes of acting under this subsection, the board must have a quorum consisting of at least one (1) member appointed under section 18(c)(2) of this chapter and at least one (1) member appointed under section 18(c)(3) of this chapter.

(2) A transfer under this subsection must be approved by the affirmative vote of:

(A) at least fifty percent (50%) of the members present at a duly called meeting of the board who are appointed under section 18(c)(2) of this chapter; and

(B) at least fifty percent (50%) of the members present at a duly called meeting of the board who are appointed under section 18(c)(3) of this chapter.

(3) The board may make transfers only one (1) time during a calendar year.

(4) The board may not make a transfer that:

- (A) impairs cost recovery by CMRS providers or PSAPs; or
- (B) impairs the ability of the board to fulfill its management and administrative obligations described in this chapter.

(c) If all CMRS providers have been reimbursed for their costs under this chapter, and the fee has been reduced under section 26(c) of this chapter, the board shall manage the fund in the following manner:

(1) One cent (\$0.01) of the wireless emergency 911 fee collected from each subscriber may be used by the board to recover the board's expenses in administering this chapter. However, the board may increase this amount at the time the board may adjust the monthly fee assessed against each subscriber to allow for full recovery of administration expenses.

(2) Thirty-eight and three tenths cents (\$0.383) of the wireless emergency 911 fee collected from each subscriber must be distributed to each county containing at least one (1) PSAP, as

identified in the county notice required by section 40 of this chapter. The board shall make these distributions in the following manner:

(A) The board shall distribute on a monthly basis to each eligible county thirty-four and four tenths cents (\$0.344) of the wireless emergency 911 fee based upon the county's percentage of the state's population.

(B) The board shall distribute on a monthly basis to each eligible county three and nine tenths cents (\$0.039) of the wireless emergency 911 fee equally among the eligible counties. A county must use a distribution received under this clause to reimburse PSAPs that:

(i) are identified by the county under section 40 of this chapter as eligible for distributions; and

(ii) accept wireless enhanced 911 service;

for actual costs incurred by the PSAPs in complying with the wireless enhanced 911 requirements established by the FCC order and rules.

~~(C) The board shall deposit the remainder of the wireless emergency 911 fee collected from each subscriber into an escrow account to be used for costs associated with other wireless enhanced 911 services mandated by the FCC and specified in the FCC order but not incurred by PSAPs. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments for costs associated with other wireless enhanced 911 services mandated by the FCC but not specified in the FCC order or to make distributions to PSAPs under this section.~~

(3) If the fee has been reduced under section 26(c) of this chapter, **and if the board has made the distributions under subdivisions (1) and (2), the board may use money remaining in the accounts for a purpose set forth in section 41.5 of this chapter.**

**(4) If the fee has been reduced under section 26(c) of this chapter, and if money remains in the accounts after a distribution under subdivision (3), the board shall deposit the remainder of the wireless emergency 911 fee collected from each subscriber into an escrow account to be used for costs associated with other wireless enhanced 911 services mandated by the FCC and specified in the FCC order but not incurred by PSAPs. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments for costs associated with other wireless enhanced 911 services mandated by the FCC but not specified in the FCC order or to make distributions to PSAPs under this section. The board**

1 shall determine how money remaining in the accounts or money  
 2 for uses described in subsection (a) is to be allocated into the  
 3 accounts described in this subsection or used for distributions  
 4 under ~~this subsection~~ **subdivisions (1) and (2).**

5 This subsection does not affect the transfer provisions set forth in  
 6 subsection (b).

7 SECTION 15. IC 36-8-16.5-41.5 IS ADDED TO THE INDIANA  
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2006]: **Sec. 41.5. (a) A county shall use its**  
 10 **distribution made under section 39 of this chapter for the lease,**  
 11 **purchase, construction, or maintenance of a county emergency**  
 12 **operations center (as defined in IC 10-14-3-3.5), including the lease,**  
 13 **purchase, installation, or maintenance of equipment necessary to**  
 14 **operate the county emergency operations center.**

15 **(b) If:**

- 16 **(1) the board receives a written complaint alleging that a**  
 17 **county has used money received under section 39 of this**  
 18 **chapter in a manner that is inconsistent with this chapter; and**  
 19 **(2) a majority of the board votes to conduct an audit of the**  
 20 **county;**

21 **the board may contract with a third party auditor to audit the**  
 22 **county to determine whether the county has used money received**  
 23 **under this chapter in a manner consistent with this chapter."**

24 Renumber all SECTIONS consecutively.

(Reference is to ESB 285 as printed February 14, 2006.)

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Representative Ruppel